

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	File No. EB-02-TP-550
Rama Communications, Inc.)	
Licensee of Station WLAA(AM)	NAL/Acct. No. 200432700011
Winter Park, Florida)	
)	FRN: 0005-0080-16
)	

FORFEITURE ORDER

Adopted: December 22, 2004

Released: December 23, 2004

By the Assistant Chief, Enforcement Bureau:

I. INTRODUCTION

1. In this *Forfeiture Order* ("Order"), we issue a monetary forfeiture in the amount of eighteen thousand dollars (\$18,000) to Rama Communications ("Rama"), licensee of AM radio station WLAA, Winter Garden, Florida, for willful and repeated violation of Sections 11.35(a) and 73.3526(c)(1) of the Commission's Rules ("Rules").¹ The noted violations involve Rama's failure to maintain operational Emergency Alert System ("EAS") equipment, and failure to make available the required public file documents during regular business hours.

2. On March 5, 2004, the Commission's Tampa, Florida District Office ("Tampa Office") issued a *Notice of Apparent Liability for Forfeiture* ("NAL") to Rama for a forfeiture in the amount of eighteen thousand dollars (\$18,000).² Rama filed a response to the *NAL* on April 5, 2004.

II. BACKGROUND

3. On June 3, 2003, the Tampa Office received a complaint regarding WLAA's operations. On June 13, 2003, agents from the Tampa Office inspected WLAA. During the inspection, the agents tried twice to run an EAS test using the shared EAS equipment with co-located and co-owned station WOKB(AM) also in Winter Garden, Florida. The tests were not successfully transmitted over station WLAA. The station logs for WLAA showed no entries of EAS tests for the past six months. Further, the public inspection file for WLAA did not contain a copy of the current Commission license, contour maps, most recent ownership report, employment reports, issues/program lists or local public notice announcements. On July 25, 2003, the agents made another investigation which revealed that the entire public file was not available at the main studio, but at another address instead.

4. On March 5, 2003, the Tampa Office issued the subject *NAL* to Rama for apparent willful and repeated violation of 11.35(a) and 73.3526(c)(1) of the Rules. Rama responded to the *NAL* stating that the station's recent move caused a problem with the EAS equipment on station WLAA, but

¹ 47 C.F.R. §§ 11.35(a), 73.3526(c)(1).

² *Notice of Apparent Liability for Forfeiture*, NAL/Acct. No. 200432700011 (Enf. Bur., Tampa, Florida Office, released March 5, 2004).

not station WOKB which shares the EAS equipment. The engineer corrected the EAS problem as soon as he was made aware of it after the inspection. Similarly, Rama states that the EAS log book should have been marked to reflect that it contained EAS records for both WLAA and WOKB, instead of just WOKB. Rama admitted that during the June 13 inspection the public inspection file had missing items, but maintains that the file was then relocated and was available at the new location, and that “the contents of the public inspection file has been addressed by the station manager.” Rama seeks an elimination of the forfeiture or a reduction, based on the violations being technical in nature and not warranting an \$18,000 forfeiture.

III. DISCUSSION

5. The proposed forfeiture amount in this case was assessed in accordance with Section 503(b) of the Communications Act of 1934, as amended, (“Act”),³ Section 1.80 of the Rules,⁴ and *The Commission’s Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines* (“*Forfeiture Policy Statement*”).⁵ In examining Rama’s response, Section 503(b) of the Act requires that the Commission take into account the nature, circumstances, extent and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.⁶

6. Section 11.35(a) of the Rules requires that broadcast stations be responsible for ensuring that EAS Encoders, EAS Decoders, and Attention Signal generating and receiving equipment used as part of the EAS are installed such that monitoring and transmitting functions are available during the times that the stations are in operation. On June 13, 2003, Rama’s EAS equipment for WLAA was not operational.⁷ Rama does not contest the violation and states that its engineer fixed the problem quickly.⁸ The Commission has consistently found that while commendable, “corrective action taken to come into compliance with Commission rules or policy is expected, and does not nullify or mitigate any prior forfeitures or violations.”⁹ Further, under Section 503(b)(1)(B) of the Act,¹⁰ a broadcast licensee that “willfully or repeatedly” fails to comply with any provision of the Act or any rule, regulation or order issued by the Commission under the Act” is subject to forfeiture liability. In this context, “willful” simply means the conscious and deliberate commission or omission of an act, *irrespective of any intent* to violate statutory or regulatory requirements.¹¹ Further, “repeated” means the violation continued for more than one day.¹² In that regard, we note that according to Rama, the violation had existed since a recent

³ 47 U.S.C. § 503(b).

⁴ 47 C.F.R. § 1.80.

⁵ 12 FCC Rcd 17087 (1997), *recon. denied*, 15 FCC Rcd 303 (1999).

⁶ 47 U.S.C. § 503(b)(2)(D).

⁷ Moreover, there were no entries in the station’s log to indicate any problem or malfunction of the EAS equipment, as required by 47 C.F.R. § 11.35(b).

⁸ Rama’s response included a sworn statement by its engineer that he successfully rewired the EAS equipment when told of the problems discovered during the Commission’s June 13, 2004 inspection.

⁹ *Seawest Yacht Brokers*, 9 FCC Rcd 6099 (1994); *AT&T Wireless Services, Inc.*, 17 FCC Rcd 21866, 21871 (2002).

¹⁰ 47 U.S.C. § 503(b)(1)(B).

¹¹ See 47 U.S.C. § 312(f)(1) (emphasis added); see also *Southern California Broadcasting Co.*, 6 FCC Rcd 4387, 4387-88, ¶ 5 (1991).

¹² As provided by 47 U.S.C. § 312(f)(2), a continuous violation is “repeated” if it continues for more than one day. The *Conference Report* for Section 312(f)(2) indicates that Congress intended to apply this definition to Section 503 (continued....)

move. As such, the equipment was inoperable for more than one day. Accordingly, we conclude that Rama willfully and repeatedly violated Section 11.35(a) of the Rules.

7. Section 73.3526(c)(1) of the Rules requires that a station's public inspection file be available for inspection at any time during regular business hours. In its response, Rama does not contest that its public inspection file was incomplete for the first inspection on June 13, but does admit that the file had been relocated to a different location and was not at the main studio at the time of the second inspection on July 25, 2003. Rama claims further that "the contents of the public inspection file has been addressed by the station manager," but provides no indication when the missing contents were actually added to the file. Again, as noted above, corrective action taken to come into compliance with Commission rules does not nullify or mitigate any prior forfeitures or violations.¹³ The public inspection file was not available as required at the time of inspection. Accordingly, we find that Rama willfully violated Section 73.3526(c)(1) of the Rules, and conclude that the later correction of the public inspection file status does not mitigate the proposed forfeiture.

8. Finally, Rama argues that the violations were "technical" in nature and as such, should not warrant an \$18,000 forfeiture. We disagree; the Commission has found that an EAS equipment failure or failure to maintain a public inspection log are not merely technical or minor violations,¹⁴ and the assessed forfeiture amounts are specifically set out in the "Guidelines for Assessing Forfeitures" in the Commission's Rules.¹⁵ We have examined Rama's response to the *NAL* pursuant to the statutory factors above, and in conjunction with the *Policy Statement* as well. As a result of our review, we conclude that Rama willfully and repeatedly violated Sections 11.35(a) and 73.3526(c)(1) of the Rules and we find no grounds to reduce or cancel the forfeiture amount proposed in the *NAL*.

IV. ORDERING CLAUSES

9. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Act, and Sections 0.111, 0.311 and 1.80(f)(4) of the Rules,¹⁶ Rama Communications, Inc., licensee of Station WLAA(AM), in Winter Garden, Florida, **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of eighteen thousand dollars (\$18,000) for its willful and repeated violation of Sections 73.3526(c)(1) and 11.35(a) of the Rules.

10. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules within 30 days of the release of this *Order*. If the forfeiture is not paid within the period specified, the case may be referred to the Department of Justice for collection pursuant to Section 504(a) of the Act.¹⁷ Payment of the forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Acct. No. and FRN No. referenced above. Payment by check or money order may be mailed to Forfeiture Collection Section,

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of the Act as well as Section 312. See H.R. Rep. 97th Cong. 2d Sess. 51 (1982). See *Southern California Broadcasting Company, supra*, at 4388 and *Western Wireless Corporation*, 18 FCC Rcd 10319 at fn. 56 (2003).

¹³ See note 9, *infra*.

¹⁴ See *Mapa Broadcasting, L.L.C.*, 17 FCC Rcd 10519 (Enf. Bur. 2002) (finding that not having the required EAS equipment was not a minor violation) and *Jesse C. Ross and Ernestine A. Ross, Forfeiture Order* (Enf. Bur. released Oct. 22, 2004) (assessing the same forfeiture amount for violations of the same rules).

¹⁵ 47 C.F.R. § 1.80(b)(4). The forfeiture amount for each violation is also set out in the *Policy Statement, supra*, at *Appendix A*.

¹⁶ 47 C.F.R. §§ 0.111, 0.311, 1.80(f)(4).

¹⁷ 47 U.S.C. § 504(a).

Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. Payment by overnight mail may be sent to Bank One/LB 73482, 525 West Monroe, 8th Floor Mailroom, Chicago, IL 60661. Payment by wire transfer may be made to ABA Number 071000013, receiving bank Bank One, and account number 1165259. Requests for full payment under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.¹⁸

11. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by First Class and Certified Mail Return Receipt Requested to Rama Communications, Inc., P.O. Box 680889, Orlando, FL 32868.

FEDERAL COMMUNICATIONS COMMISSION

George R. Dillon
Assistant Chief, Enforcement Bureau

¹⁸ See 47 C.F.R. § 1.1914.